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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 3.30 p.m.

Agenda item 109: Human rights questions (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*)

1. **The Chairman** proposed that the Committee should take note of documents A/57/284, A/57/290 and Corr.1, A/57/345 and A/57/366 and Add.1 under agenda item 109 (c), and documents A/57/36 and A/57/446 under agenda item 109 (e).

2. *It was so decided.*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/57/L.56/Rev.1, A/C.3/57/L.86 and L.87 and A/57/357)

Draft resolution contained in document A/57/357: Report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities

3. **Mr. de Barros** (Secretary of the Committee) summarized the programme budget implications of the draft resolution as set forth in document A/C.3/57/L.89. Should the draft resolution be adopted, if the Committee held its second session between 16 and 27 June 2003, expenditure of $90,000 would be required. This amount would be absorbed to the extent possible, but should that prove not to be possible, the necessary funds would be sought in the context of the consideration by the General Assembly of the second performance report at its fifty-eighth session. Further, the Assembly was requested to clarify the conditions and modalities of the support to be provided to participants from non-governmental organizations and experts from developing countries.

4. **Mr. Gallegos Chiriboga** (Ecuador), speaking in his capacity of Chairman of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, established by the General Assembly in its resolution 56/168 of 19 December 2001, said that at its first session, held at United Nations Headquarters from 29 July to 9 August 2002, the Ad Hoc Committee had adopted a report which had been submitted to the fifty-seventh session of the General Assembly, and also a draft resolution entitled "Ad Hoc Committee to consider proposals on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities". In that draft resolution, the Committee decided to hold a new session in June 2003, after regional preparatory meetings. He thanked all countries and non-governmental organizations for their efforts and their contributions to the work of the Committee, the primary objective of which was to frame a convention with unanimously acceptable wording. Many non-governmental organizations, such as Disabled People's International, were considering the work and decisions of the Ad Hoc Committee at their meetings. He thanked the United Nations High Commissioner for Human Rights and the Department of Economic and Social Affairs for their co-operation, and also the Government of Mexico and the Department of Economic and Social Affairs, which had devoted a CD-ROM to preparatory activities relating to the Convention, including in particular the report of the expert group meeting held in Mexico in June 2002 and the report of the Ad Hoc Committee. He concluded by asking Governments, organizations, professional persons and members of civil society to continue their efforts to ensure that the Convention on persons with disabilities became a reality, and that that particular population group was fully integrated into society.

5. **Mr. Camponovo** (United States of America), explaining his delegation's position before adoption of the draft resolution, said that while the text was unobjectionable, it was regrettable that the Secretariat had been so slow in submitting the document on its programme budget implications (A/C.3/57/L.89). His delegation could say nothing about the quality of that document, as there had not been time to give it adequate consideration. It was to be hoped that the expenditure involved would be fully funded from the regular budget, and that the Fifth Committee would look closely at document A/C.3/57/L.89.

6. **Mr. Tomoshige** (Japan) said that his delegation took a positive view of the report of the Ad Hoc

Committee, but shared the concern expressed by the representative of the United States. It was unfortunate that the document on the programme budget implications of the draft resolution should have been distributed only a few minutes before the adoption of the draft text, especially in view of the fact that the Ad Hoc Committee had submitted its report several months earlier. It was to be hoped that such a situation would not recur in future.

7. **Ms. Maillé** (Canada) said that her delegation wished to align itself with those of the United States and Japan. It was surprising that a document which had been adopted in the summer of 2002 with no reference to its financial implications should now be subjected to an entirely different reading on the part of the Secretariat. Furthermore, there were some inconsistencies in document A/C.3/57/L.89, as, for example, in paragraphs 4, 5 and 10. Her delegation had no wish to dissociate itself from the consensus on the draft resolution, but did hope that all expenditure would be absorbed within the regular budget. Document A/C.3/57/L.89 should be submitted to the Fifth Committee.

8. **Mr. Wood** (United Kingdom of Great Britain and Northern Ireland) said that his delegation shared the views expressed by the representatives of the United States, Japan and Canada. It was highly unfortunate that document A/C.3/57/L.89 had been submitted at such a late stage. In terms of substance, moreover, the document was somewhat confusing. It should be submitted to the Fifth Committee.

9. *The draft resolution contained in document A/57/357 was adopted without a vote.*

10. *The meeting was suspended at 3.45 p.m. and resumed at 4.15 p.m.*

Draft resolution A/C.3/57/L.56/Rev. 1: Extrajudicial, summary or arbitrary executions and amendments contained in documents A/C.3/57/L.86 and L.87

11. **Mr. de Barros** (Secretary of the Committee) read out a statement from the Programme Planning and Budget Division on the financial implications of paragraph 20 of draft resolution A/C.3/57/L.56.Rev.1. The Secretariat drew the Committee's attention to the provisions of section VI of General Assembly resolution 45/248 B, under which the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions were entrusted with responsibilities for administrative and budgetary matters. Expenditures relating to the work of the Special Rapporteur were included in the programme budget for the biennium 2002-2003, and consequently the adoption of draft resolution A/C.3/57/L.56.Rev.1 would have no implications for that budget.

12. **Mr. Af Hällström** (Finland) introducing draft resolution A/C.3/57/L.56/Rev.1 on behalf of the sponsors, which had been joined by Burundi, Cameroon and the Dominican Republic, said that the text was the outcome of in-depth negotiation and should have been adopted by consensus, especially in view of the fact that the issue was one of importance. Consequently, it was regrettable that efforts to that end had not sufficed to avoid votes on the amendments contained in documents A/C.3/57/L.86 and L.87.

13. **The Chairman** announced that Costa Rica had become a sponsor of draft resolution A/C.3/57/L.56/Rev.1.

Document A/C.3/57/L.86: Proposed amendments to draft resolution A/C.3/57/L.56/Rev. 1 (Extrajudicial, summary or arbitrary executions)

14. **Mr. Roshdy** (Egypt), speaking on behalf of the sponsors of the amendments contained in document A/C.3/57/L.86, which had been joined by Algeria and Kuwait, said that the reason why the draft resolution could not be adopted by consensus was not that some delegations had proposed amendments, but that the sponsors of the draft text had not retained the wording of General Assembly resolution 55/111, which had been unanimously adopted.

15. **Ms. Grollová** (Czech Republic) said that her delegation would like to see the sponsors of the amendments contained in document A/C.3/57/L.86 reconsider their position on the first proposed amendment and display the same spirit of conciliation as various delegations had shown the previous day when they had joined in the consensus on the resolution on protecting human rights and fundamental freedoms while countering terrorism (A/C.3/57/L.61). With respect to the second proposed amendment, it would undoubtedly be desirable for operative paragraph 18 to be recast in clearer terms in 2003, as the existing wording concerning the question of guarantees and the legality or illegality of executions was somewhat confusing. For the time being, however, it seemed preferable to retain the existing wording,

especially in view of the fact that that was the wording that had regularly been adopted at previous sessions of the General Assembly.

16. **Mr. Andrabi** (Pakistan) expressed support for the statement made by the representative of the Czech Republic and reiterated his delegation's unconditional support for efforts to put an end to extrajudicial, summary or arbitrary executions and for the mandate entrusted to the Special Rapporteur by Economic and Social Council resolution 1982/35 and Commission on Human Rights resolution 1992/72. That mandate, which required the Special Rapporteur to "examine situations of extrajudicial, summary or arbitrary executions", had not been adhered to. Furthermore, Commission on Human Rights resolution 2002/36, which was referred to in the draft resolution, had not been adopted by consensus, but had been put to a vote, at the request of his own delegation, as it happened, on behalf of the States Members of the Organization of the Islamic Conference that sat on the Commission on Human Rights, on the grounds that operative paragraph 7 constituted a clear violation of the mandate of the Special Rapporteur. Consequently, it was unacceptable for the draft resolution to include a reference to Commission on Human Rights resolution 2002/36, and his delegation would like to see that reference deleted.

17. **Mr. Sallam** (Saudi Arabia) said that his delegation condemned the practice of extrajudicial, summary or arbitrary executions and would support any General Assembly measure that genuinely sought to bring about the elimination of such executions. The initial intent of the revised draft resolution had been admirable, and should not be subverted by the introduction of considerations that had no place in the text, such as the reference to the death penalty. Countries that applied the death penalty possessed a legislative and judicial framework within which certain crimes were punishable by that penalty. In such cases, the execution of a person who had been sentenced to death could not be termed extrajudicial, summary or arbitrary, since the sentence was the outcome of a verdict reached by a court of law. For that reason, it would be preferable for the wording of operative paragraph 18 to be such that all States, and not only States in which some crimes were punishable by death, were called upon to ensure that no extrajudicial, summary or arbitrary executions took place in their territories. It was to be hoped that the Special Rapporteur and the General Assembly would focus their attention on extrajudicial, summary or arbitrary executions exclusively.

First proposed amendment, contained in paragraph 1

18. **Mr. Roshdy** (Egypt) said that if a recorded vote was taken to decide whether it was in order for the draft resolution to include a reference to a duly adopted resolution, resolution 2002/36 in this particular instance, there was reason to fear that the practice would become progressively more frequent, resulting in serial votes.

19. **Ms. Baardvik** (Norway), speaking in explanation of vote before the voting, said that her delegation would vote against the first amendment. The General Assembly was entirely within its rights to take Commission on Human Rights resolutions into account, even where they had not been adopted by consensus.

20. **Mr. Af Hällström** (Finland), speaking in explanation of vote before the vote, said that there could be no doubt that the Commission on Human Rights resolution on extrajudicial, summary or arbitrary executions and the draft resolution submitted to the General Assembly were two different things, but that each of those bodies had an important role to play in the area of human rights, and consequently it was natural to refer to resolutions that each of them had adopted in the past. The expression "taking note" could hardly be confused with "welcoming", or even "taking note with appreciation"; the wording of the paragraph in question was thus as neutral as possible. For those reasons, his delegation would vote against the first amendment.

21. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, expressed support for the remarks made by the representative of Finland. The European Union had supported the draft resolution originally submitted by the delegation of Finland and would have voted for it if it had been put to a vote. The European Union set great store by the draft resolution, and had endeavoured, along with the sponsors, both in the Commission on Human Rights and in the Third Committee, to ensure that the final text of the draft resolution would be balanced and would be adopted by consensus, in accordance with Third Committee practice. However, the Special Rapporteur had obtained new information which should be taken into

account in the draft resolution. The European Union had shown flexibility by supporting the revised draft resolution, which retained the essence of the text that had originally been submitted, and hoped that all delegations would do the same. Accordingly, it would vote against all the amendments contained in documents A/C.3/57/L.86 and L.87.

22. **Mr. von Kaufmann** (Canada), speaking in explanation of vote before the voting on all the amendments contained in documents A/C.3/57/L.86 and L.87, said that the resolution on the question had been adopted by consensus at the 2000 session. It was thus regrettable that some delegations had broken the consensus on a form of words that had been adopted in the past, and that the draft resolution was being put to a vote. The proposed amendments contained in documents A/C.3/57/L.80, L.81, L.86 and L.87 had been taken into account when the revised version of the draft resolution was being prepared, but the proposals contained in the two last-named of those documents had been maintained none the less. His delegation did not see why the General Assembly should not take note of the latest resolution on the subject. "Taking note" did not mean "endorsing". The second amendment also had to do with a form of words that had been adopted by consensus at the 2000 session. The content of operative paragraph 18 of the draft resolution fell within the mandate of the Special Rapporteur, as was apparent from operative subparagraph 12(f). It was therefore in order to call upon States to comply with their obligations under the relevant international instruments and to follow due process when applying the death penalty, in order to ensure that no extrajudicial, summary or arbitrary executions took place. The third amendment appeared to be superfluous, as the mandate of the Special Rapporteur, which had originally been established by the Commission on Human Rights in 1982, then extended in 1992, adopted by consensus by the General Assembly and finally renewed in 2001. Operative paragraph 12 had been added to the draft resolution in order to respond to concerns expressed by some delegations. References to the mandate of the Special Rapporteur also occurred in the second preambular paragraph and in operative paragraphs 10, 13, 14, 16 and 20. The other proposed amendments, dealing as they did with the mandate of the Special Rapporteur, were also superfluous, since operative paragraphs 12 and 13 stipulated that the Special Rapporteur should act within her mandate.

23. Following a discussion of procedure in which Mr. Roshdy (Egypt), Ms. Astanah (Malaysia) and Mr. Dube (Botswana) participated, the Chairman asked the delegations to address each of the proposed amendments separately, inasmuch as individual votes were to be taken on them.

24. **Ms. Loemban Tobing-Klein** (Suriname) said that her delegation would not take part in the voting on the first amendment.

25. *A recorded vote was taken.*

In favour:

Algeria, Bahrain, Bangladesh, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Djibouti, Egypt, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Morocco, Myanmar, Oman, Pakistan, Papua New Guinea, Qatar, Saudi Arabia, Sierra Leone, Singapore, Sudan, Syrian Arab Republic, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, India, Ireland, Iceland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Nigeria, Norway, Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Trinidad and Togabo, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Angola, Antigua and Barbuda, Bahamas, Barbados, Belarus, Belize, Benin, Bhutan, Burkina Faso, Cambodia, Cameroon, Cape Verde,

Dominica, Ethiopia, Gambia, Ghana, Grenada, Guyana, Haiti, Kazakhstan, Kenya, Lesotho, Madagascar, Malawi, Namibia, Nepal, Nicaragua, Paraguay, Peru, Philippines, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, South Africa, Sri Lanka, Swaziland, Thailand, Zimbabwe.

26. *The first proposed amendment, contained in paragraph 1 of document A/C.3/57/L.86, was rejected by 79 votes to 35, with 38 abstentions.*

Second proposed amendment, contained in paragraph 2

27. **Ms. Astanah** (Malaysia) expressed agreement with the European Union's view that the resolution in question was of the utmost importance; the proposed amendment to operative paragraph 18 was thus equally essential, as the provisions of the text were applicable to all countries. In that connection, all States, regardless of whether they were sponsors of the draft resolution, had agreed during the unofficial consultations that extrajudicial, summary or arbitrary executions might occur in any country, whether that country applied the death penalty or not. Hence the need to amend operative paragraph 18. That paragraph, moreover, was the only one in the resolution in which Governments were called upon to comply with their obligation not to carry out or tolerate extrajudicial, summary or arbitrary executions.

28. **Ms. Grollová** (Czech Republic) said that her delegation was unable to accept the proposed amendment, as executions were unlawful in the Czech Republic, and consequently there was no need to make provision for protective measures in the matter. Her delegation would therefore vote against the proposed amendment.

29. **Ms. Ahmed** (Sudan) stated that her delegation wished to align itself with the statement made by the representative of Malaysia.

30. The point of the amendment was solely to make operative paragraph 18 more inclusive by having it call upon all States, rather than only States that had not yet abolished the death penalty. Her delegation would therefore vote in favour of the proposed amendment, and hoped that the other delegations would do the same.

31. **Mr. Zeidan** (Lebanon), speaking in explanation of vote before the voting, said that it was not a question of taking a stance either in favour of or against the death penalty, and that operative paragraph 18 of the draft resolution, in its original wording, referred only to States in which the death penalty had not yet been abolished. His delegation did not see how the possibility of extrajudicial, summary or arbitrary executions could be ruled out in other States, especially in view of the fact that the paragraph in question referred to safeguards which had been accepted by States that applied the death penalty. The correlation thereby suggested did not exist and was unjust.

32. While paragraph 18 was acceptable in terms of its substance, however, its form left something to be desired. At the same time, his delegation attached great importance to the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64, which were referred to in operative paragraph 18 of the revised draft resolution.

33. Lebanon had not abolished the death penalty, but the application of that penalty was subject to very stringent restrictions for humanitarian reasons. The issue was a highly controversial one, in many instances because it was attended by religious considerations, but it was for sovereign States to decide whether or not to abolish it. His delegation would therefore vote in favour of the proposed amendment.

34. **Ms. Gunnarsdóttir** (Iceland) said that the proposed amendment would be tantamount to a repudiation of the terms that had been agreed upon two years earlier. The purpose of the revised draft resolution was not to pass judgement on countries that had not abolished the death penalty, but to prevent extrajudicial, summary or arbitrary executions and to ensure that States complied with their obligations. Her delegation would therefore vote against the proposed amendment.

35. **Mr. Begg** (New Zealand) expressed surprise that anyone should wish to amend operative paragraph 18 of the draft resolution, which reproduced an agreed form of words. It was to be suspected that statements in favour of the amendment were intended only to muddy the waters by insinuating that States in which the death penalty was not in use were not subject to the same obligations as States in which capital punishment had not been abolished. States that applied the death penalty were required to comply with their obligations in the matter; States that had abolished it were obviously not subject to any such obligations.

Operative paragraph 18 made no judgements and was not a call for the abolition of the death penalty; it was designed only to remind the States concerned that they had an obligation to comply with international safeguards if they were not to run the risk of being accused of perpetrating extrajudicial, summary or arbitrary executions. His delegation wished to emphasize the flexibility that the sponsors of the text had demonstrated during the negotiations, and their determination to reach a consensus. It was regrettable that language which had previously been agreed upon had not been deemed acceptable by all. The proposed amendment sought to amend that language, and consequently his delegation would vote against it.

36. **Mr. Af Hällström** (Finland) said that previously agreed language was being called into question by a few delegations. Operative paragraph 18 of the draft resolution was not concerned with the death penalty as a legal punishment, but merely sought to remind States of their obligations under such instruments as the Covenant on Civil and Political Rights or the Convention on the Rights of the Child, and to call upon them to apply the safeguards and guarantees attendant on application of the death penalty. His delegation wished to emphasize, once again, that the proposed amendment called agreed language into question. In a number of the paragraphs of the draft resolution, including operative paragraphs 2, 5 and 6, States were asked to ensure that the practice of extrajudicial, summary or arbitrary executions was brought to an end. His delegation would therefore vote against the proposed amendment, and urged all delegations to do the same.

37. **Ms. Groux** (Switzerland) noted that operative paragraph 18 of the draft resolution reproduced language that had been adopted by consensus two years earlier. The paragraph was not intended to single out any Government in particular, but to remind States of the obligations, safeguards and guarantees associated with international human rights instruments. It was to be hoped that the agreed language would again be adopted. Her delegation intended to vote against the proposed amendment.

38. **Mr. Sinaga** (Indonesia) said that his delegation would vote in favour of the amendment in order to encourage all Governments and States to eradicate the practice of extrajudicial, summary or arbitrary executions.

39. *A recorded vote was taken.*

In favour:

Algeria, Bahamas, Bahrain, Bangladesh, Belize, Benin, Bhutan, Brunei Darussalam, Cameroon, China, Comoros, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Egypt, Eritrea, Gambia, Guyana, Indonesia, Iran (Islamic Republic of), Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Marshall Islands, Morocco, Nicaragua, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Sierra Leone, Singapore, Sudan, Syrian Arab Republic, Thailand, Tunisia, Uganda, United Arab Emirates, United States of America, Yemen.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Angola, Antigua and Barbuda, Barbados, Belarus, Botswana, Burkina Faso, Cape Verde, Dominica, Ethiopia, Ghana, Grenada, India, Israel, Lesotho, Madagascar, Malawi, Namibia, Nepal, Nigeria, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Senegal, South Africa, Sri Lanka, Swaziland, United Republic of Tanzania, Zambia, Zimbabwe.

40. *The second proposed amendment, contained in paragraph 2 of document A/C.3/57/L.86, was rejected by 72 votes to 49, with 29 abstentions.*

41. **Ms. Thandar** (Myanmar) said that her delegation would have voted in favour of the proposed amendment if it had been present at the time the vote was taken.

42. **Mr. Andrabi** (Pakistan) asked whether, in a case where the sponsors of a draft resolution had altered language that had been agreed upon in an earlier resolution, any negotiation on that language and any amendments thereto were automatically ruled out. There had been negotiations over the initial draft text, and it would be helpful if other delegations stopped referring to it as an agreed text.

43. **Ms. Ahmed** (Sudan) pointed out that it was sometimes necessary to reformulate and amend agreed language to make it more effective. The situation had occurred before, and doubtless would occur again.

Third proposed amendment, contained in paragraph 3

44. **Mr. Roshdy** (Egypt) reviewed the contents of the proposed amendment. It was for the General Assembly to adopt the mandates of Special Rapporteurs and to remind Special Rapporteurs that they must act within the mandates entrusted to them. He briefly reviewed the reasons why, in the view of his delegation, the report on extrajudicial, summary or arbitrary executions submitted by the Special Rapporteur of the Commission on Human Rights (A/57/138) overstepped the bounds of the mandate that had been entrusted to her, and noted that the Special Rapporteur also referred to a category of minorities that was not included in the 1992 Declaration on Minorities. The sponsors of draft resolution A/C.3/57/L.56/Rev.1 had seen fit to remind the High Commissioner for Human Rights that he should act in conformity with his mandate, and consequently it was in order to issue a similar reminder to the Special Rapporteur.

45. **Mr. Camponovo** (United States of America) said that the Special Rapporteur and the members of the Office of the United Nations High Commissioner for Human Rights who assisted her should act strictly within their mandate. That mandate did not extend to the question of the abolition of the death penalty, and did not authorize the persons concerned to call into question a penal system that applied the guarantees provided by law and the relevant safeguards. Special Rapporteurs would retain their credibility, and Governments would be prepared to co-operate with them, only provided they and the members of the Secretariat who assisted them acted within their mandates.

46. **Mr. Andrabi** (Pakistan) noted that in operative paragraph 14 of the draft resolution, the Special Rapporteur was urged to continue her work within her mandate. There would appear to be no reason why the same form of words should not be used in paragraph 22.

47. **Mr. Af Hällström** (Finland), speaking in explanation of vote before the voting, said that his delegation saw no need for the proposed amendment. The mandate of the Special Rapporteur was already referred to in operative paragraphs 12, 13 and 14. In response to the remarks made by the representative of the United States of America, the question of the death penalty was indeed within the mandate of the Special Rapporteur as it had been conferred upon her by the Commission on Human Rights in subparagraph 15(a) of resolution 2001/45. His delegation considered that the proposed amendment and the requested vote were superfluous, and would vote against the proposed amendment.

48. *A recorded vote was taken.*

In favour:

Algeria, Bahamas, Bahrain, Bangladesh, Benin, Bhutan, Botswana, Brunei Darussalam, Cambodia, China, Comoros, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malaysia, Malawi, Maldives, Marshall Islands, Morocco, Myanmar, Nepal, Nigeria, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saint Lucia, Senegal, Sierra Leone, Singapore, Saudi Arabia, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, United States of America, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic,

Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Angola, Antigua and Barbuda, Barbados, Belarus, Belize, Burkina Faso, Cameroon, Cape Verde, Côte d'Ivoire, Dominica, Fiji, Ghana, Grenada, Israel, Kazakhstan, Madagascar, Namibia, Nicaragua, Russian Federation, Saint Vincent and the Grenadines, South Africa, Sri Lanka.

49. *The third proposed amendment, contained in paragraph 3 of document A/C.3/57/L.86, was rejected by 67 votes to 64, with 22 abstentions.*

Document A/C.3/57/L.87: Proposed amendments to draft resolution A/C.3/57/L.56/Rev.1 (Extrajudicial, summary or arbitrary executions)

50. **The Chairman** announced that a recorded vote on each of the amendments contained in the document had been requested.

First proposed amendment, contained in paragraph 1

51. **Ms. Ahmed** (Sudan) introduced the document (A/C.3/57/L.87) containing the proposed amendments to the draft resolution on behalf of the countries members of the Organization of the Islamic Conference (OIC). Those countries, determined as they were to prevent extrajudicial, summary or arbitrary executions, had attempted to achieve consensus. The object of the proposed amendments was to ensure that the text of the resolution was genuinely complete and non-exclusive. Operative paragraph 6 of draft resolution A/C.3/57/L.56/Rev.1 raised issues that were certainly of concern to the OIC, and, indeed, had been addressed in separate resolutions, but were not relevant to the question of extrajudicial executions, as the acts in question were killings committed by individuals. The sponsors of the draft resolution themselves had termed the cases there referred to, not "executions", but rather "killings". The inclusion of killings committed by individuals displaced the focus of the draft resolution, instead of leaving it unequivocally upon the obligation of States to ensure that their acts did not violate the right to life.

52. **Mr. Andrabi** (Pakistan) said that his delegation wished to align itself with the statement made by the representative of the Sudan. All States endeavoured to eliminate crimes of violence against women. Furthermore, there was machinery expressly designed to address such issues. Special Rapporteurs were appointed to investigate them, and at the current session the Third Committee had adopted, by consensus, a resolution on honour killings and another on violence against women in general. To list such crimes in operative paragraph 6 of the draft resolution would thus be a needless duplication and would introduce controversial concepts. It was, in fact, precisely because of that list that a vote on the resolution dealing with the question had had to be taken in the Commission on Human Rights.

53. **Mr. Zeidan** (Lebanon) said that his delegation wished to align itself with the statement made by the representative of the Sudan. The wording of operative paragraph 6 was unacceptable because the term "killings", which was used several times in the paragraph in question, lay outside the scope of the draft resolution. The subject of the draft resolution was executions. An execution, as defined at law, was an act of putting to death pursuant to the sentence of a court. Lebanon had no legislation providing for the sentencing of an individual to death on the grounds of his or her race, opinions, sexual orientation or right to life in general. A "killing", in the sense of a murder, had nothing to do with putting to death pursuant to a lawful sentence, which was the subject of the resolution. The use of the term weakened the thrust of the resolution, concerned as it was with addressing a Government's failure to comply with its obligation to investigate promptly and thoroughly all cases of execution in order to end impunity with regard to extrajudicial, summary or arbitrary executions and bring those responsible to justice, thereby placing the matter within the purview of the judiciary. It was self-evident that unlawful killings should be prevented and punished, but it was unreasonable, in the context of a resolution dealing with executions, to call upon Governments to investigate all killings. Again, killings

as such had no place in a resolution concerned with executions.

54. **Ms. Astanah** (Malaysia) said that her delegation wished to align itself with the statements made by the representative of the Sudan on behalf of the OIC and by the representative of Lebanon.

55. **Mr. Roshdy** (Egypt) said that his delegation also wished to align itself with the statement made by the representative of the Sudan. The sponsors of the draft resolution had themselves taken the language used in paragraph 7 of General Assembly resolution 55/111 and altered it. Would they be good enough to indicate precisely which agreed-upon terms it was that had been so regrettably, in their view, altered by the members of the OIC?

56. **Mr. Sallam** (Saudi Arabia) said that his delegation wished to align itself with the statement made by the representative of the Sudan.

57. **Mr. Af Hällström** (Finland), speaking in explanation of vote before the voting, said that it was unfortunate that a vote should be required. The proposed amendment did not contain various elements that deserved to be included in the paragraph of the draft resolution currently under consideration. For example, it said nothing about racially motivated acts of violence leading to the death of the victim, the inclusion of which had been proposed by South Africa, supported by the Group of African States; such acts were referred to in General Assembly 55/111, which had been adopted by consensus. In addition, the proposed amendment was silent about killings of human rights defenders, a category that was also included in the previous year's resolution. With respect to honour killings, it was clear that women's rights came within the mandate of the Special Rapporteur, who had a duty to react if she had reason to believe that a Government was aiding and abetting or tolerating such killings or permitting impunity, especially in cases of honour killings. With respect to sexual orientation, the sponsors were clearly not seeking to impose any new cultural standards or values, as they simply asked States to investigate all killings, including killings of persons with a different sexual orientation. It was essential to begin by investigating all killings; only afterward would it be possible to decide whether an extrajudicial execution had been perpetrated. As the proposed amendment did not strengthen the terms of the resolution, his delegation intended to vote against it.

58. **Mr. von Kaufmann** (Canada) said that the sponsors had spared no effort in attempting to achieve consensus. In the first place, operative paragraph 6 of the draft resolution was not concerned with the mandate of the Special Rapporteur, but was directed at States generally. In the second place, States were called upon to investigate all killings committed for discriminatory reasons and to bring those responsible to justice. In the third place, the list in operative paragraph 6 reproduced language that had been adopted by consensus in previous resolutions. If the amendment was adopted, and the list deleted as a result, the effect would be to leave the impression that Governments condoned killings of human rights defenders and journalists and killings committed for any discriminatory reason. His delegation asked all delegations to vote against the proposed amendment.

59. **Mr. Begg** (New Zealand) said that the amendment would eliminate from the list precisely those persons who were most frequently the victims of killings for reasons of racial or religious discrimination. Operative paragraph 6 of the draft resolution did not make any judgements on social values, but stated that Governments had an obligation to investigate all killings for discriminatory reasons and ensure that such killings were neither condoned nor sanctioned by Government officials. The types of killings referred to in the paragraph in question were very closely related to the subject of the resolution, and in eliminating any reference to these killings, it would thereby be refraining from calling upon States to investigate killings in which the State's hand was disguised or invisible. Moreover, the Third Committee had frequently reaffirmed in resolutions adopted by consensus that States had an obligation to investigate all killings. The right to life applied to all without discrimination. In remaining silent, the Committee might give the impression that it condoned impunity for those who attacked persons for discriminatory reasons. His delegation would therefore vote against the proposed amendment and asked all delegations to do the same.

60. **Ms. Gunnarsdóttir** (Iceland) noted that the proposed amendment would eliminate the reference to killings committed by paramilitary groups or private forces. Operative paragraph 6 of the draft resolution did not say that States were directly responsible for

acts committed by such forces and groups under their jurisdiction, but merely that such killings should not be condoned or sanctioned by government officials and that the State should bring those responsible to justice. Her delegation would prefer the resolution to refer to such killings because they were directly related to the subject with which it was concerned. States must begin by investigating every killing to determine whether an extrajudicial execution had occurred. A passive attitude in such cases, where the State did nothing to investigate the killing or bring those responsible to justice, and thereby appeared to be condoning or sanctioning it, might point to an extrajudicial execution. Her delegation would vote against the proposed amendment.

61. *A recorded vote was taken.*

In favour:

Algeria, Bahrain, Bangladesh, Bhutan, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Ethiopia, Gambia, Indonesia, Iran (Islamic Republic of), Jordan, Kazakhstan, Kenya, Kuwait, Lesotho, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Morocco, Myanmar, Nepal, Oman, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, Singapore, Sudan, Syrian Arab Republic, Togo, Tunisia, Turkey, United Arab Emirates, Yemen.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Ireland, Iceland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Angola, Antigua and Barbuda, Bahamas, Barbados, Belarus, Belize, Burkina Faso, Cambodia, Cape Verde, Congo, Dominica, Eritrea, Guyana, Haiti, India, Israel, Jamaica, Madagascar, Malawi, Namibia, Papua New Guinea, Peru, South Africa, Saint Lucia, Sri Lanka, Swaziland, Thailand, United Republic of Tanzania, Zambia, Zimbabwe.

62. *The first proposed amendment, contained in paragraph 1 of document A/C.3/57/L.87, was rejected by 80 votes to 44, with 30 abstentions.*

63. **Ms. Ahmed** (Sudan), speaking on behalf of the countries members of the OIC, noted that the amendment affected operative paragraph 11 of draft resolution A/C.3/57/L.56/Rev.1. During the Committee's consideration of the Special Rapporteur's report (A/57/138), many delegations had said that in their view, the Special Rapporteur had overstepped her mandate. In a spirit of compromise, the countries members of the OIC had accepted the expression "takes note of the report", on condition that the draft resolution specified that reports should remain within the mandate of the Special Rapporteur. It was not obvious why the proposed amendment should present any problems, in view of the fact that in operative paragraph 13, the Special Rapporteur was encouraged to continue, within her mandate, to collect information from all concerned.

64. **Mr. Zeidan** (Lebanon) said that his delegation wished to align itself with the statement made by the representative of the Sudan. The reason why the members of the OIC had refrained, in their amendment, from expressing their appreciation to the Special Rapporteur for her report was that an entire section of the document was devoted to violations of the right to life of members of sexual minorities. That presented a problem in so far as highlighting that group in particular appeared to imply approval of the existence of an identity associated with sexual orientation, contrary to what some of the sponsors of the draft resolution had stated earlier. In the first place, the issue was a highly controversial one among Member States for various reasons, reasons that were essentially cultural and religious in nature. But in the second

place, it was dangerous to use words loosely; the concept of a sexual minority should be precisely defined.

65. The words "while being mindful that reports should remain within the mandate of the Special Rapporteur" occurred in the proposed amendment sponsored by the countries members of the OIC. It was not quite clear to his delegation why those words should be deemed controversial, since they merely stated the obvious, they conveyed no hint of prejudice, and they referred to the future. Sovereign Member States were entitled to expect that a Special Rapporteur should not overstep the mandate which those same States, exercising their sovereignty, had conferred on him or her. Indeed, it was for that very reason that the countries members of the OIC had also presented a proposed amendment to operative paragraph 12 of the draft resolution, making that paragraph review the list of tasks entrusted to the Special Rapporteur under two Economic and Social Council resolutions and one Commission on Human Rights resolution.

66. **Mr. Alaei** (Islamic Republic of Iran) said that his delegation wished to align itself with the statement made by the representative of the Sudan on behalf of the countries members of the OIC, and also with the statement made by the representative of Lebanon. The wording of operative paragraph 11 of the draft resolution was unacceptable, as the report of the Special Rapporteur (A/57/138) was unsatisfactory in many respects and the Special Rapporteur had overstepped her mandate. The countries members of the OIC had finally agreed to take note of her report, but on the understanding that the Special Rapporteur would act within her mandate.

67. **Mr. Af Hällström** (Finland) expressed regret that the Committee should have to vote on the proposed amendment to operative paragraph 11 of the draft resolution as well. The report of the Special Rapporteur (A/57/138) constituted a response to the request contained in General Assembly resolution 55/111, and in his delegation's view, it was within the mandate of the Special Rapporteur. Furthermore, when the report had been presented, many delegations had expressed keen satisfaction, adding that its content reflected that mandate. The language used in operative paragraph 11 of the draft resolution was very neutral, speaking merely of taking note of the report. His delegation would vote against the proposed amendment.

68. **Ms. Baardvik** (Norway) said that her delegation would vote against the proposed amendment, regarding it as completely superfluous. The submission of reports was clearly within the mandate of the Special Rapporteur.

69. *A recorded vote was taken.*

In favour:

Algeria, Bahrain, Bangladesh, Benin, Bhutan, Brunei Darussalam, Cambodia, China, Comoros, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Gambia, Guyana, Honduras, India, Indonesia, Iran (Islamic Republic of), Jamaica, Japan, Jordan, Kenya, Kuwait, Lesotho, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Marshall Islands, Morocco, Myanmar, Nepal, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Senegal, Sierra Leone, Singapore, Sudan, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United States of America, Yemen, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Angola, Antigua and Barbuda, Bahamas, Barbados, Belarus, Belize, Botswana, Burkina Faso, Cape Verde, Congo, Côte d'Ivoire, Dominica, Eritrea, Ethiopia, Ghana, Grenada, Haiti, Israel, Kazakhstan, Madagascar, Malawi,

Namibia, Nigeria, Papua New Guinea, Russian Federation, South Africa, United Republic of Tanzania, Saint Lucia, Saint Vincent and the Grenadines, Sri Lanka, Swaziland, Zambia.

70. *The second proposed amendment, contained in paragraph 2 of document A/C.3/57/L.87, was rejected by 69 votes to 55, with 32 abstentions.*

Third proposed amendment, contained in paragraph 3

71. **Ms. Ahmed** (Sudan), speaking on behalf of the countries members of the OIC, said that the proposed amendment affected operative paragraph 12 of the draft resolution, which it was designed to supplement. The mandate of the Special Rapporteur was set forth in the Economic and Social Council resolutions on the issue. If the amendment were adopted, the resolution would include, for the first time, a detailed paragraph on the mandate of the Special Rapporteur. That would make it possible to avoid highly contentious debates such as the one that had followed the presentation of the Special Rapporteur's report (A/57/138).

72. **Mr. Andrabi** (Pakistan) said that the mandate of the Special Rapporteur was the most controversial issue. In that connection, it was worth recalling that she had been entrusted with that mandate by Commission on Human Rights resolution 1982/29, which had been adopted after a vote. That mandate had been endorsed by Economic and Social Council resolution 1282/35, and had subsequently been extended and broadened to include extrajudicial executions.

73. **Ms. Astanah** (Malaysia) said that her delegation wished to align itself with the statement made by the representative of the Sudan. The paragraph was a highly important one, as it constituted a very full summary of the mandate of the Special Rapporteur and the directives that were designed to guide her in carrying out that mandate. It was not clear why the sponsors of draft resolution A/C.3/57/L.56/Rev.1 should be opposed to an amendment that sought only to strengthen the resolution.

74. **Mr. Af Hällström** (Finland), speaking in explanation of vote before the voting, pointed out that the language used in operative paragraph 12 of the draft resolution exactly reproduced the language that had been used by the Commission on Human Rights when it had renewed the mandate of the Special Rapporteur. In its resolution 2001/45, moreover, the Commission had asked her to carry out her mandate. The issue of the legal framework of that mandate was addressed in the second preambular paragraph of the draft resolution. His delegation would vote against the proposed amendment and urged the other delegations to do the same.

75. *A recorded vote was taken.*

In favour:

Algeria, Bahamas, Bahrain, Bangladesh, Benin, Bhutan, Brunei Darussalam, Cambodia, China, Comoros, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Gambia, Guyana, India, Indonesia, Iran (Islamic Republic of), Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Morocco, Myanmar, Nepal, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Senegal, Sierra Leone, Singapore, Sudan, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Ireland, Iceland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Angola, Antigua and Barbuda, Barbados, Belarus, Belize, Botswana, Burkina Faso, Cape Verde, Congo, Dominica, Eritrea, Ethiopia, Ghana, Grenada, Kazakhstan, Lesotho, Malawi, Namibia, Nigeria, Papua New Guinea, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines,

South Africa, Sri Lanka, Swaziland, Zambia, Zimbabwe.

76. *The third proposed amendment, contained in paragraph 3 of document A/C.3/57/L.87, was rejected by 73 votes to 52, with 28 abstentions.*

The meeting rose at 16.15 p.m.